

Application No.: 09/613,028
Reply to Office Action of: May 14, 2007

REMARKS

This amendment is responsive to the office action dated May 14, 2007. Claims 1-6, 11-16, 21-28, 33-41, and 46-49 stand rejected. Non-elected claims 7-10, 17-20, 29-32, 42-45 are canceled, without prejudice, to be pursued in a continuation application. By this amendment, claims 1, 11, 23, and 36 are amended. Reconsideration of this application is respectfully requested for the reasons indicated here.

35 U.S.C. § 112 Rejections

In paragraph 3 of the office action, the Examiner rejects claims 1-6, 11-16, 21-28, 33-41, and 46-49 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner indicates that the claims contain “subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.” Applicants have demonstrated above that he did not have possession of the claimed subject matter at the time of the invention. Therefore, reconsideration of the claims presented here is respectfully requested.

In paragraph 4 of the office action, claims 1-6, 11-16, 21-28, 33-41, and 46-49 are rejected under 35 U.S.C. Section 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors at the time the application was filed had possession of the claimed invention. The Examiner indicates that the specification as originally filed does not disclose the claim limitations of claims 1, 11, 23, and 36 “wherein said data input surface is responsive to a touch thereon and is in an unabutted location relative to a perimeter of a display device.” The input surface is in an unabutted location relative to a perimeter of a display device was not described in the specification at the time of the application was filed. The Examiner has requested Applicants to show where the written description, with page number and line numbers, show the recitation “wherein said data input surface is responsive to a touch thereon and is in an unabutted location relative to a perimeter of a display device.” Applicants respectfully submit that the drawing figures that were originally filed, which constitute part of the disclosure clearly illustrate this

limitation. Applicants draw the Examiner's attention to the rules of practice indicated below, which clearly illustrate that the drawing illustrations are part the disclosure, "which facilitate an understanding of the invention." To that end, if the Examiner requires a specific reference in the specification of the limitation in the manner claimed, Applicant's can introduce suitable description based on the drawing illustration.

1. MPEP 608.02 Drawing [R-3]

2. 35 U.S.C. 113 Drawings.

The applicant shall furnish a drawing where necessary for the understanding of the subject matter to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Commissioner may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

3. 37 CFR 1.81 Drawings required in patent application.

(a) The applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented; this drawing, or a high quality copy thereof, must be filed with the application. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.

(b) Drawings may include illustrations which facilitate an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views).

(c) Whenever the nature of the subject matter sought to be patented admits of illustration by a drawing without its being necessary for the understanding of the subject matter and the applicant has not furnished such a drawing, the examiner will require its submission within a time period of not less than two months from the date of the sending of a notice thereof.

(d) Drawings submitted after the filing date of the application may not be used to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

a. I. DRAWING REQUIREMENTS
b.

The first sentence of **35 U.S.C. 113** requires a drawing to be submitted upon filing where such drawing is necessary for the understanding of the invention. In this situation, the lack of a drawing renders the application incomplete and, as such, the application cannot be given a filing date until the drawing is received. The second sentence of **35 U.S.C. 113** addresses the situation wherein a drawing is not necessary for the understanding of the invention, but the subject matter sought to be patented admits of illustration and no drawing was submitted on filing. The lack of a drawing in this situation does not render the application incomplete but rather is treated as an informality. The examiner should require such drawings in almost all such instances. Such drawings could be required during the initial processing of the application but do not have to be furnished at the time the application is filed. The applicant is given at least 2 months from the date of the letter requiring drawings to submit the drawing(s).

>If the specification includes a sequence listing or a table, such a sequence listing or table is not permitted to be reprinted in the drawings. 37 CFR **1.83(a)** and **1.58(a)**. If a sequence listing as shown in the drawings has more information than is contained in the specification, the sequence listing could be included in the specification and the drawings.

Applications filed under 35 U.S.C. **371** are excluded from the prohibition from having the same tables and sequence listings in both the description portion of the specification and drawings.<

c. MPEP 608.02(d) Complete Illustration in Drawings [R-3]
4. *37 CFR 1.83 Content of drawing.*

(a) **>The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (*e.g.*, a labeled rectangular box). In addition, tables and sequence listings that are included in the specification are, except for applications filed under **35 U.S.C. 371**, not permitted to be included in the drawings.<

(b) When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

Application No.: 09/613,028
Reply to Office Action of: May 14, 2007

(c) Where the drawings in a nonprovisional application do not comply with the requirements of paragraphs (a) and (b) of this section, the examiner shall require such additional illustration within a time period of not less than two months from the date of the sending of a notice thereof. Such corrections are subject to the requirements of § 1.81(d).

Any structural detail that is of sufficient importance to be described should be shown in the drawing. (*Ex parte Good*, 1911 C.D. 43, 164 O.G. 739 (Comm'r Pat. 1911).)

Form paragraph **6.22.01**, **6.22.04**, or **6.36**, where appropriate, may be used to require illustration.

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a. 6.22.01 Drawings Objected To, Details Not Shown

The drawings are objected to under 37 CFR **1.83(a)** because they fail to show [1] as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § **608.02(d)**. Corrected drawing sheets in compliance with 37 CFR **1.121(d)** are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Reconsideration of this application is respectfully requested in view of the above

Application No.: 09/613,028
Reply to Office Action of: May 14, 2007

arguments. The Examiner is invited to telephone the undersigned representative if a telephonic or personal interview might expedite consideration and allowance of this application.

Respectfully submitted,

BERRY & ASSOCIATES P.C.

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